THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.22191 of 1998

DATE: 26-9-2007

Between:

M.Mallaiah … Petitioner

And

1. The Presiding Officer,
Industrial Tribunal-I, Hyderabad
And another … Respondents

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.22191 of 1998

O R D E R:

Aggrieved by the award of the Industrial Tribunal-I, Hyderabad in I.D.No.95 of 1996 dated 16.12.1997, the present writ petition is filed by the petitioner – workman.

The Industrial Tribunal in its award dated 16.12.1997, on considering the evidence on record came to the conclusion that the petitioner had put in more than 240 days service during the 12 month period prior to his termination and, since his termination was in violation of Section 25-F of the Industrial Disputes Act, his retrenchment was illegal. The Industrial Tribunal, however, held that in lieu of reinstatement, compensation was a more responsible relief since the Heavy Water Project of the Department of Atomic Energy was an industry started by the Central Government in the interest of the nation, that the required sanctioned strength was fixed by the Central Government, the respondent had provided regular jobs to 130 workers and had given temporary status to 55 workers as per the earlier award of the Tribunal, that the respondent had also to provide jobs to one member from each of the family of the land losers and that it would not be just to mulct the workman on the respondent, though they had no work and if the petitioner and similarly situated workmen

were thrust on it, a large chunk of the funds allotted for manufacture would be used to pay wages alone. The Industrial Tribunal also noted that the petitioner had raised the dispute more than 8 years after retrenchment and in such circumstances passed the award directing the respondent to pay Rs.10,000/- as compensation to the petitioner and to pay interest at 12% per annum in case payment was not made promptly.

Sri V.Viswanatham, learned counsel for the petitioner, would submit that the Industrial Tribunal having held that the petitioner workman had put in more than 240 days of service ought to have directed reinstatement and not for compensation to be paid in lieu thereof. Learned counsel would submit that, in any event, the compensation as awarded by the Labour Court was very meagre and necessitated interference.

It is well settled by a catena of judgments in **Management of Coimbatore Pioneer B.Mills v. Presiding Officer, Labour Court, Coimbatore**[1], affirmed by the Supreme Court in **Workmen of Coimbatore Pioneer "B" Mills Ltd. V. Labour Court**[2], **Mount Mettur Pharmaceuticals Ltd v. Second Additional Labour Court, Madras**[3], **General Manager, Haryana Roadways v. Rudhan Singh**[4], **Dungar Das v. UCO Bank**[5] that even in cases where termination of the service of a workman is held to be in violation of Section 25-F of the Industrial Disputes Act, the Industrial Tribunal/Labour Court can, for just and valid reasons, direct payment of compensation in lieu of reinstatement. In the present case, the Industrial Tribunal has given valid reasons in justification for its coming to the conclusion that the petitioner should be paid compensation in lieu of

reinstatement. As such the award of the Industrial Tribunal cannot be faulted on this score.

On the question of quantum of compensation, it must be noted that the petitioner is said to have worked for around two years from 1984-86. He kept quiet for more than 8 years before he raised the dispute in the year 1995. It is not in dispute that the compensation of Rs.10,000/- awarded to the petitioner is far in excess of the amount which he would have received if the provisions of Section 25-F had been complied with. For the inordinate delay on the part of the petitioner in invoking its jurisdiction the Industrial Tribunal has considered it appropriate to award compensation of Rs.10,000/-. This Court, in Certiorari proceedings, would not sit in appeal over the discretion exercised by the Industrial Tribunal in this regard. Suffice to hold that the discretion exercised by the Industrial Tribunal in awarding compensation of Rs.10,000/- is not one which necessitates interference in Certiorari proceedings under Article 226 of the Constitution of India.

The writ petition fails and is accordingly dismissed. No order as to costs.

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26-9-2007

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[1] 1979(1) LLJ 41 (Madras HC DB)

[2] 1980(1) LLJ 503

[3] 1985(2) LLJ 505 (Madras HC DB)

[4] (2005)5 SCC 591

[5] 2005(3) LLJ 17 (Rajasthan)